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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,477	08/04/2003	Gregory S. Burcham	02-5739	5159

7590 08/25/2005

William M. Hobby, III  
157 E. New England Avenue, #375  
Winter Park, FL 32789

EXAMINER
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HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,477

Applicant(s)

BURCHAM ET AL.

Examiner

James S. Hogan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/04/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,381,960 to Sullivan et al. in view of U.S. Patent No. 3,682,388 to Ferguson.

Regarding claim 1, Sullivan et al. teaches a wobbling sprinkler head (12) with a base (20) having an attachment portion (16) for attaching to a water source; a nozzle (42) mounted to the base for directing water from the water supply; a wobbling water deflector head (22) movably attached to the base and having a water deflector pad (generally indicated as 25) thereon having a deflector surface of predetermined positioned to deflect water being emitted from the nozzle to rotate the wobbling water deflector head. Sullivan et al. does not teach a counterbalancing skirt extending from the deflecting head. Ferguson ('388) teaches a counterbalancing skirt (see Fig. 9) extending from a water deflecting head around a portion of a base on a fire sprinkler whereby the skirt counterbalances the deflector head to dampen vibration forces in the deflector head (See Col. 5, line 64-Col. 6, line 12). As for claim 2, the deflector head of Sullivan et al. ('960) has a loose fitting sleeve (32) mounted over a flange (generally indicated at 31). As per claims 3 and 4, the deflecting pad of Sullivan et al. ('960) is

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supported by multiple supporting arms (27). As per claim 5, Sullivan et al. ('960) does not teach a skirt attached to the loose fitting sleeve. The Ferguson ('388) skirt attaches to a rigidly mounted deflector on a rigid sleeve for the sole purpose of counterbalancing vibrations. One of ordinary skill in the art would recognize its loose-sleeve mounted equivalent if used to modify the device of Sullivan et al. ('960). As per claim 6 the Ferguson ('388) skirt has a plurality of open areas therein (not numbered). In light of all of the above, it has been deemed obvious to one having ordinary skill in the art at the time the invention was made to have modified a wobbling sprinkler head as taught by Sullivan et al. ('960) with the counterbalancing skirt as taught by Ferguson ('388) in order to produce a wobbling sprinkler head with better rotational control.

#### ***Allowable Subject Matter***

Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 6,186,414 to Clearman et al., disclosing a wobbling sprinkler

U.S. Patent No. 6,530,532 to Santiesteban et al., disclosing a starter for a wobbling sprinkler

U.S. Patent No. 4,356,972 to Vikre, disclosing an irrigation sprinkler

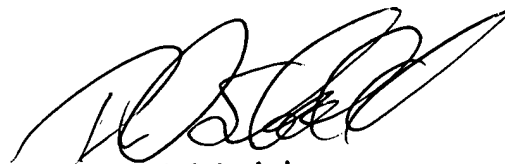
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH  
08/16/2005



**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**